S.B. Civil Writ Petition NO.2302/2005

Anandi Devi Mali
vs
State of Rajasthan & Ors.

DATE OF ORDER : - 19.4.2005.

HON'BLE MR. PRAKASH TATIA,J.

Mr.Sanjay Mathur, for the petitioner.

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Heard learned counsel for the petitioner.

Facts in brief are that one Rukmani Devi elected as Chairperson of the Municipal Board, Gangapur City. After her being elected as a member of the Municipal Board in general election a no confidence motion was submitted against the said Rukmani Devi, which was carried by the resolution dated 15.1.2002. The said motion was challenged by Rukmani Devi by filing writ petition no.2204/2002. The writ petition of Rukmani Devi was allowed by this Court by order dated 29th July, 2002 and the no confidence motion was quashed.

One Bhawani Shanker preferred an special appeal being D.B.Civil Special Appeal (Writ) No.677/2002 against the judgment of the Single Bench, which was dismissed by the Division Bench vide order dated 24th Sept., 2004 after observing that the writ petition ought to have been dismissed on sole count as the elected post, there is no room for setting

the clock back once the person has lost the confidence.

An application was submitted for recalling the order passed by the Division Bench on 24.9.2003, which was allowed by the order of the Division Bench dated 1.4.2005 on the ground that no opportunity of hearing was given to learned counsel for the respondent no.4. Therefore, the special appeal was restored for hearing. However, for the reasons best known to the appellant, the appellant withdrawn the D.B.Civil Special Appeal No.677/2002. Therefore, the only order, which remains in force is the order of this Court passed in S.B.Civil Writ Petition No.2204/2002 dated 29th July, 2002 in which the no confidence motion carried against Rukmani Devi was set aside.

The petitioner, who was elected as Chairperson of the Municipal Board during this period has apprehension that now she will be removed from the office of the Chairperson, Municipal Board, Gangapur City because of the order passed by the learned Single Bench of this Court in S.B.Civil Writ Petition NO.2204/2002. Since the order of this Court dated 29th July, 2002 is a final order, therefore, that order if is given effect then the petitioner should not have any grievance. The petitioner could have elected only against the vacant post, but when the no confidence motion against the said Rukmani Devi has been quashed by this Court, the post cannot be vacant on the day when the

petitioner was elected.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

(Prakash Tatia), J.

c.p.goyal/-